APPELLANT PRO SE:

JANETTA McCLELLAN
Hammond, Indiana

IN THE
COURT OF APPEALS OF INDIANA

JANETTA McCLELLAN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 45A03-0703-CV-105
	)	
4 RENT, INC. d/b/a THRIFTY CAR RENTAL,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Michael Pagano, Magistrate
Cause No. 45D09-0609-SC-2981

September 20, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Janetta McClellan ("McClellan") appeals the trial court's denial of her Motion to Set Aside Default Judgment. We affirm.

Issue

McClellan raises four issues on appeal, which we consolidate and re-state as: whether the trial court abused its discretion in denying her oral Motion to Set Aside Default Judgment.

Facts and Procedural History

4 Rent, Inc. ("4 Rent") sued McClellan in small claims court for damages related to the rental of a car. The car was impounded by a law enforcement authority in Iowa, resulting in a series of charges in addition to the rental fee. When McClellan failed to appear at a hearing on December 1, 2006, the small claims court entered a default judgment of $392.77 in favor of 4 Rent.

On January 5, 2007, the trial court held a hearing at which McClellan and an attorney for 4 Rent appeared. McClellan indicated that she was prevented from attending the earlier hearing because her car overheated. The small claims court indicated that it understood her excuse. In discussing the substance of the dispute, McClellan acknowledged that she owed 4 Rent $192, but contested $200 of the default judgment. She also identified that her signature was on a promissory note. Ultimately, the small claims court stated, "I'm going to deny your request to set the judgment aside." Transcript at 16.

McClellan filed timely a notice of appeal.

Discussion and Decision

I. Standard of Review

As an initial matter, we note that 4 Rent has not filed an appellee's brief. Accordingly, we need not develop an argument for the appellee. Allender v. Fields, 800 N.E.2d 584, 585 (Ind. Ct. App. 2003). We may reverse the trial court's decision if the appellant makes a prima facie showing of error. Id. "Prima facie" means "at first sight." Id.

A trial court may set aside a default judgment for the grounds provided in Indiana Trial Rule 60(B). Ind. Trial Rule 55(C). A trial court "may relieve a party or his legal representative from an entry of default . . . for . . . mistake, surprise, or excusable neglect" if the party demonstrates a meritorious defense. Ind. Trial Rule 60(B)(1); Nwannunu v. Weichman & Assocs., P.C., 770 N.E.2d 871, 879 (Ind. Ct. App. 2002). We review the trial court's decision for an abuse of discretion. Coslett v. Weddle Bros. Constr. Co., 798 N.E.2d 859, 861 (Ind. 2003). Any doubt of the propriety of a default judgment should be resolved in favor of the defaulted party. Id. Indiana law strongly prefers disposition of cases on their merits. Id. "A meritorious defense is one showing that, if the case was tried on the merits, a different result would be reached." Nwannunu, 770 N.E.2d at 879.

II. Analysis

On appeal, McClellan argues that the small claims court abused its discretion in denying her oral Motion to Set Aside Default Judgment. While her brief does not address the reason for her absence on December 1, the small claims court indicated that it understood her excuse. We conclude from our review of the record that she has established excusable neglect, for purposes of Indiana Trial Rule 60(B)(1).

Meanwhile, she asserts that "the judgment was extreme [by $200] and plaintiff was not entitled to the amount in which the plaintiff based their evidence." Appellant's Brief at 5. In support, her Appendix includes various receipts, including one on which she marked an alleged error. However, she does not address or provide for our review the promissory note referenced during the hearing on January 5, 2007. Nor does she explain her contention that the judgment was excessive. In light of these omissions, we must conclude that she has failed to establish a prima facie showing of a meritorious defense. The trial court did not abuse its discretion in denying her Motion to Set Aside Default Judgment.

Affirmed.

BAKER, C.J., and VAIDIK, J., concur.